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09/840,327	04/23/2001	Tadamasa Kitsukawa	50P4366	4083

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EXAMINER

LU, SHIRLEY

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/840,327
Filing Date: April 23, 2001
Appellant(s): KITSUKAWA ET AL.

Kitsukawa et al.
For Appellant

EXAMINER'S ANSWER

MAILED
JUN 16 2006
GROUP 2600

This is in response to the appeal brief filed 2/27/06 appealing from the Office action
mailed 10/19/05.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

09/834511 and 09/840437.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The statement of the status of claims contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

wo 98/56188 Hsu
Official Notice

(9) Grounds of Rejection

Claim Rejections - 35 USC § 102

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. **Claims 1-14, 16-22, and 24-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Hsu (WO 98/56188).**

As to claim 1, Hsu teaches:

An interactive television system, comprising: at least one Web server (page 1, line(s) 29-31);

at least one television signal source (page 4, line(s) 13);

at least one interactive television, the interactive television including plural television channels and plural virtual channels, each television signal being associated with television content, each virtual channel being associated with a respective Web page having Internet content, the television channels and virtual channels being selectable by the interactive television in order to display the respective content (page 4,

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line(s) 7); (page 4, line(s) 10-13), the virtual channels being periodically updated with new content from the respective Web page (page 15, line(s) 10-35);

at least one ITV system server accessing a customer database to access consumer profiles useful for tailoring virtual channels to a consumer's profile, the ITV system server sending the updates to the television (page 11, line(s) 19-27); (page 11, line(s) 35-29); (page 12, line(s) 17-20) .

As to claim 2, Hsu teaches:

An interactive television system, comprising: at least one Internet content provider (page 10, lines 9-10);

at least one television signal source (page 4, line(s) 13);

at least one interactive television, the interactive television receiving content from the Internet content provider and the television signal source, the interactive television including a program for allowing a consumer to select an television channel or a virtual channel (page 4, line(s) 7); (page 4, line(s) 10-13), the interactive television including means for periodically updating the virtual channel with updates from an associated Web page, the virtual channel being established by the Web page and being updated without user request (page15, lines 10-35).

As to claim 3, the claimed logic means for 'providing plural interactive television channels, enabling a user to select an interactive television channel, and determining an interactive television channel' is met as discussed in claim 1.

As to claim 4, the claimed "television channel associated with a respective television signal source" is met by "channels separately representing individual

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television content and individual internet content" (page 4, lines 11-13); the claimed 'logic means for displaying television broadcast content...' is met by "when an individual television content channel or an individual internet content channel is selected, the client presents the content associate with the selected channel on the display.

As to claim 5, the claimed "virtual channel associated with an Internet content provider" and "logic means for displaying Internet content..." are met as discussed in claims 1 and 4, respectively.

As to claim 6, the claimed "Web server" is met as discussed in claim 1, and the claimed Web page is met by that discussed on (page 4, line 19).

As to claim 7, the claimed Internet content stored in the ITV memory is met by "off-line browsing that allows a client user to view pages already stored in cache memory from previously visited web sites" (page 2, lines 37-39) and "can be stored either on the client or the sever" (page 10, lines 15-17).

As to claim 8, the claimed "logic means for prompting a consumer for input regarding an interactive television system" is met by 'a program which determines the useful data desired by the user via a questionnaire and then occasionally initiates requests for information from the server' (page 3, lines 24-29).

As to claim 9, the claimed "logic means for receiving consumer input at an interactive television" is inherent in the system as discussed in claim 8.

As to claim 10, the claimed "logic means for transmitting the consumer input to an interactive television server" is met by the 'templates (tailored for specific user profiles) which can be stored either on the client or the server' (page 10, lines 15-17).

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As to claim 11, the claimed "logic means for transmitting the consumer input to an Internet content provider" is met by as discussed in claim 10.

As to claim 12, Hsu teaches:

A system for enabling a consumer to access the Internet using a television having at least one television tuner (page 1, line(s) 29-31); (page 4, line(s) 13),

the television including plural television channels and at least one virtual channel, the virtual channel representing a Web page (page 4, line(s) 7); (page 4, line(s) 10-13),

the system comprising: means for periodically sending updates to the Web page to the television, such that the virtual channel is periodically updated thereby without user interaction (page 15, lines 10-35).

As to claim 13, the claimed memory is met 'storing on the client' as discussed in claim 7.

As to claim 14, the claimed remote memory is met by 'storing on the sever' as discussed in claim 7.

As to claim 16, the claimed 'cable modem for sending updates' is met by that described on (page 7, line 39) since if 'the guide page resides on the client, it can be periodically updated by the server' (page 12, lines 16-20) via Internet connection as discussed in claim 2.

As to claim 17, the claimed 'updates sent via at least one VBI of a television signal' is met by 'the client utilizing both a telephone modem and digital satellite service, where the satellite service delivers to the client both traditional television programming,

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as well as internet content during the blanking signal of the television programming' (page 8, lines 10-15).

As to claim 18, the claimed 'conventional television control device receiving consumer input' is met by a "remote control device 24 to allow the user convenient control of both Internet and television functions" (page 7, lines 18-20).

As to claim 19, the claimed "input to be received and stored in memory inside the television at a first time and then transmitted to a site remote from the television a second time" is inherently met when 'the user selects a general, preferably demographically-based profile' (claimed consumer input) (page 11, lines 34-39), which 'can be stored on the server' (page 10, line 15). In other words, the consumer profile (claimed input) is inherently "stored in memory inside the television at a first time", since the profile is eventually "stored at the server" (claimed "transmitted to a site remote from the television a second time"); the reason being that as the consumer is inputting his profile, the data must at least be temporarily stored at the television before it is sent to the server.

As to claim 20, Hsu teaches:

A system for presenting television signals and Web pages on a single interactive television (ITV), comprising: a television tuner supported on the ITV and detecting television signals (page 1, line(s) 29-31); (page 4, line(s) 13);

a display on the ITV for, in response to a user channel selection, presenting a television channel or a Web page on the ITV, the Web page being associated with a

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virtual channel (page 7, line(s) 1-14); (page 7, line(s) 1-14); (page 4, line(s) 7); (page 4, line(s) 10-13),

system logic for updating the Web page associated with the virtual channel, such that a first version of the Web page is displayed via the virtual channel at a first time, and a second version of the Web page is displayed via the virtual channel at a second time (page 15, lines 10-35).

As to claim 21, the claimed memory is met 'storing on the client' as discussed in claim 7.

As to claim 22, the claimed remote memory is met by 'storing on the sever' as discussed in claim 7.

As to claim 24, the claimed 'cable modem for sending updates' is met by that described on (page 7, line 39) since if 'the guide page resides on the client, it can be periodically updated by the server' (page 12, lines 16-20) via Internet connection as discussed in claim 2.

As to claim 25, the claimed 'updates sent via at least one VBI of a television signal' is met by 'the client utilizing both a telephone modem and digital satellite service, where the satellite service delivers to the client both traditional television programming, as well as internet content during the blanking signal of the television programming' (page 8, lines 10-15).

Claim Rejections - 35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 15 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsu (WO 98/56188).

As to claims 15 and 23, although the Hsu reference fails to disclose a “DSL line attached to the television for sending updates” the examiner gives Official Notice that it is notoriously well known in the art to use a connected DSL line to update a television, since this type of connection enables desired data transfer efficiency. Accordingly, it would have been clearly obvious to one of ordinary skill in the art to modify the Hsu reference to use DSL, which effectively makes necessary the existence of an infrared receive unit.

(10) Response to Argument

a. Rejection under 35 U.S.C. 102(e) of claims 2 and 12.

I. First, appellant argues, “no portion of Hsu has been pointed to for the allegation regarding “updates,” nor does there seem to be any in Hsu. Once a virtual channel is established, it evidently remains static; at least, there are no automatic updates.

In response to Appellant’s arguments, Hsu discloses that the virtual channels are updated at page 15, lines 10-35, in particular see lines 10-16.

Furthermore, Hsu discloses "the associated objects or graphics may be downloaded periodically (page 15, lines 10-35, note lines 18-22).

II. Appellant argues, "Once a virtual channels is established it evidently remains static; at least there are no automatic updates."

In response to Appellant's arguments, the examiner agrees with the Appellant that a virtual channel is established by Hsu. Hsu distinguishes television channels and Internet channels (virtual channels) at page 4, lines 10-16. Hsu discloses that the virtual channels are updated at page 15, lines 10-35, in particular see lines 10-16. Furthermore, the virtual channel or Internet channel (page 4, lines 9-14) comprises templates and/or guide pages (page 12, lines 27). First, templates are active and dynamic (not static), see page 12, lines 6-7. Secondly, guide pages comprises HTML codes (Web based content), see page 12, line 12. Thirdly, guide pages can be modified, adapted or updated by the server (page 12, lines 16-19). Fourthly, the guide page is periodically updated by the server at page 12, lines 21-27. Therefore, the virtual channels of Hsu do not remain static and have automatic updates. A virtual channel (Internet channel) is updated, in that updating the template or web page is means that the virtual web page is updated.

III. Appellant argues, "Page 11, lines 19-27 of Hsu does not discuss updating a virtual channel, but rather updating a template that correlates a Web page with a topic.

In response to Appellant's arguments, Hsu discloses that the virtual channels are updated at page 15, lines 10-35, in particular see lines 10-16. Furthermore, the virtual channel (Hsu page 4, lines 9-14) comprises templates and/or guide pages (page 12, lines 27). First, templates are active and dynamic (not static), see page 12, lines 6-7. Secondly, guide pages comprises HTML codes (Web based content), see page 12, line 12. Thirdly, guide pages can be modified, adapted or updated by the server (page 12, lines 16-19). Fourthly, the guide page is periodically updated by the server at page 12, lines 21-27. Therefore, the virtual channels of Hsu do not remain static and have automatic updates. The virtual channel (Internet channel) of Hsu includes among other things the templates, guide pages and Web pages that are updated as described on page 15, lines 10-35.

Appellant argues, "Page 12 likewise does not update a virtual channel, but rather adapts a template of Web pages for changing user profiles."

In response, Hsu discloses 'web-based' content, 'the guide page includes html codes' (page 12, lines 7-27, note lines 12-14), which is automatically modified (page 12, lines 7-27, note lines 17-20).

IV. Fourth, appellant argues, "In other words, the list of web pages that is established by the user's profile may change, but there is no mention of updating a virtual channel with new content from the same Web site without user interaction as set forth in, e.g., Claim 2.

In response, Hsu (WO 98/56188) discloses "the virtual channel being established by the Web page and being updated without user request," as recited by appellant's claim (automatic updates 'documents or web pages can be ***automatically updated***' (page 15, lines 10-35, note lines 26-29)).

Furthermore, Hsu discloses 'the associated objects or graphics may be downloaded periodically (page 15, lines 10-35, note lines 18-22).

Support for the Official Notice-

Examiner provides or notes that the Wasserman et al. (6874161) reference provides evidence of using a connected DSL line to update a television being notoriously well known.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


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Patent Examiner


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